

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

MONDREA VINNING EL,

Plaintiff,

V.

JOHN EVANS, et al.,

Defendants.

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Civil No. **05-570-DRH**

ORDER

PROUD, Magistrate Judge:

Before the Court is plaintiff's motion for summary judgment. **(Doc. 13)**. Plaintiff generally asserts that the facts alleged in his complaint are true, and that the law fully supports his position that he has been denied a religious diet in violation of the First Amendment. Plaintiff's motion is premised entirely on the pleadings. Accordingly, it is properly characterized as a motion for judgment on the pleadings, pursuant to Federal Rule of Civil Procedure 12(c).

A review of the record reveals that plaintiff's motion was filed on March 20, 2006. Defendant Sutton executed a waiver of service on March 3, 2006; therefore his answer or other responsive pleading was not due until May 1, 2006. Defendant Evans waived service on March 21, 2006; therefore, his answer or other responsive pleading was not due until May 15, 2006. Federal Rule of Civil Procedure 12(c) provides that a plaintiff may not move for judgment until after the pleadings are closed, meaning until after the defendants have answered or otherwise responded to the complaint. Therefore, plaintiff's motion was filed prematurely.

IT IS THEREFORE ORDERED that plaintiff's motion for judgment on the pleadings

(Doc. 13) is STRICKEN AS PREMATURE

IT IS FURTHER ORDERED that defendants' motions to stay and to strike aimed at plaintiff's motion for summary judgment **(Docs. 17 and 21)** are **DENIED AS MOOT**.

IT IS SO ORDERED.

DATED: January 31, 2007

s/ Clifford J. Proud
CLIFFORD J. PROUD
U. S. MAGISTRATE JUDGE